

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7736

BILL NUMBER: HB 1780

NOTE PREPARED: Feb 28, 2005

BILL AMENDED: Feb 28, 2005

SUBJECT: Deer operations and marketing.

FIRST AUTHOR: Rep. Friend

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill allows white-tailed deer meat and products to be sold. It adds cervidae to the Commodity Market Development Program. It establishes a registration program for cervidae livestock operations within the Board of Animal Health (BAH). It exempts accredited zoos and certain federally regulated operations. It provides that privately owned cervidae are the property of the owner. The bill allows cervidae meat and products to be sold. It establishes operational standards for cervidae livestock operations. It also establishes fees for registration of an operation and establishes penalties for violations.

Effective Date: Upon passage; July 1, 2005.

Explanation of State Expenditures: (Revised) **BAH.** The bill provides that meat and products derived from privately owned cervidae may be sold to the general public. The sale of cervidae products must comply with public health laws. The BAH must register facilities. A cervidae livestock facility in existence before May 15, 2005, is required to obtain a registration not later than January 1, 2006, to continue engaging in a cervidae livestock operation. Before January 1, 2006, the BAH must adopt rules to define harvesting methods and standards. The BAH must also adopt standards with respect to facilities, records, recovery protocol for any animals that become released, oversight responsibilities, and reporting. These standards must be published and made available on the BAH's web site.

The BAH currently inspects 350 cervidae farms about once a year. The BAH may need to reassign current staff or hire additional staff to implement the provisions of the bill. If all 350 require inspections within a short time period, the BAH may need to reassign existing staff or hire additional staff. If a significant number of additional farms are established and require registration, the BAH may need to reassign current staff or hire

additional staff. Costs, including fringe benefits, for one additional staff member are estimated at \$55,582. Additional duties of the BAH are outlined below.

Adopting Rules. The BAH must formulate proposed rules not later than September 1, 2005, pertaining to the operational standards for registered privately owned cervidae facilities. The BAH should be able to implement this provision given its existing resources.

BAH Registration. A person may not operate a cervidae livestock operation unless the person obtains from the BAH a cervidae livestock facility registration. An application for registration must be submitted to the BAH not less than 60 days before the construction of the cervidae livestock facility. The applicant must submit a business plan that complies with the standards. The BAH must forward a copy of the application to the DNR.

Renewal Notice. The BAH must send to a cervidae livestock facility owner a renewal application 60 days before the expiration of the registration. The BAH will incur additional administrative expenses associated with the implementation of this provisions. The BAH should, however, be able to absorb additional costs. Registrations expire after three years.

Modification of a Facility. A registered cervidae livestock facility must apply for a modification of the facility registration before making any change to the facility that would lead to a change in the registration classification or a dramatic change in the business plan. The board must provide the modification application to the applicant and make the application form available on the BAH's web site.

BAH Inspections. (Revised) The BAH must inspect cervidae livestock facility to determine if the facility meets standards before registration can be obtained. If denied, the applicant may submit a written request for an informal board review. The BAH must provide the informal review which must include the applicant, the board, and the DNR. If, after the review, the board determines that the facility complies, the BAH must issue a registration. If denied, the BAH must affirm the denial in writing and specify the deficiencies.

When the construction of the cervidae livestock facility is completed, the applicant must notify the board in writing. Within 30 days after notification, the board must inspect the facility. The board must issue a registration within 30 days after completion of the inspection if the facility is in compliance. The time periods may be extended by the board only if the board is unable to verify the removal of wild cervidae or for an act of nature.

Without filing a second application, an applicant may request a second inspection after the specified deficiencies have been corrected.

Upon receipt of a second denial, the applicant may submit a written request for an informal board review. The BAH must provide the review and include the applicant, the board, and the DNR. After the review, if the BAH determines that the facility complies, the BAH must issue a registration within 30 days. If denied, the BAH must affirm the denial in writing and specify the deficiencies needed to be addressed.

The applicant may request an administrative hearing upon a denial of registration or upon any limitations placed on a registration.

Office of the Commissioner of Agriculture (OCA). (Revised) The bill provides that a fee for cervidae must be paid from a cervidae livestock facility. These fees must be collected by the Commissioner of Agriculture.

The Office of the Commissioner must also adopt standards to evaluate the issuance, maintenance, modification, and renewal of a registration issued. The Commissioner will need to hire an additional staff person to implement these provisions. Costs, including fringe benefits, for one additional staff member are estimated at \$55,582.

Department of Natural Resources (DNR). (Revised) A person who maintains one or more white-tailed deer must obtain a breeder's license if the person's facility is not a registered cervidae livestock facility. The DNR currently issues game breeders licenses to approximately 250 white tail game breeders. The provision should have no impact on the DNR expenses.

The BAH must enter into a memorandum of understanding with the DNR for determining compliance by persons engaged in cervidae livestock operations, applicants, and registered cervidae livestock facilities. The BAH must obtain written confirmation from the DNR that the DNR has approved the method used to flush any wild cervidae from the facility and that all wild cervidae have actually been flushed before issuing any registration. This provision will add administrative expenses to the DNR. The specific impact is indeterminable.

Penalty Provisions. The BAH is responsible for investigating violations. A person may not knowingly provide the BAH with false information or resist, impede, or hinder the BAH's duties. A person who knowingly or intentionally violates these provisions commits a Class A misdemeanor. A person may not release or allow the release of any cervidae from a cervidae livestock facility. A person may not cause the ingress of wild cervidae into a cervidae livestock facility. An owner may not abandon a registered cervidae livestock facility without first notifying the BAH. A person who violates these provisions commits a Class B infraction or a Class A infraction for each subsequent offense. A person who knowingly or intentionally violates these provisions commits a Class B misdemeanor.

Attorney General. The BAH must notify the Attorney General of the failure of any person to pay an administrative fine. The Attorney General must bring a civil action in a court to recover the fine. Civil penalties collected must be paid to the state General Fund.

Background Information.

Regulatory Responsibilities of DNR. The DNR is currently responsible for managing white-tailed deer. Game mammals may be possessed, bought or sold for propagation purposes only. Hunting may occur only within designated seasons and in accordance with rules established by the DNR. Early archery deer season begins in mid-October with firearms season running from mid November to December 1. Archery season concludes the first Sunday of January.

Regulatory Responsibilities of BAH. The BAH supervises the prevention, suppression, control, and eradication of diseases affecting the health of animals and the safety of products derived from animals. BAH responsibilities include the state meat inspection program that includes approximately 350 "farm raised cervidae". BAH duties extend to all cervidae species, not just white-tailed deer.

Explanation of State Revenues: DNR Hunting License Revenue. (Revised) The bill does not give a cervidae livestock operation authority to take wild cervidae, unless a permit is issued by the DNR. However, the bill does provide that meat and products derived from privately owned cervidae may be sold to the general public. This provision could reduce DNR revenues generated by the sale of deer hunting permits. Hunting license fees are deposited in the Fish & Wildlife Fund which is used to finance the operations of the DNR Divisions of Fish

& Wildlife and Law Enforcement.

Flushing of Cervidae. (Revised) Any wild cervidae remaining in the cervidae livestock facility after a person has flushed the wild cervidae must be killed or tranquilized and removed by or under the authority of the DNR. The facility owner must pay the state \$1,500 per cervid that must be killed. The fees must be deposited in the DNR Fish & Wildlife Fund. The amount of revenue that will be generated by this provision is indeterminable.

Fee for Facilities. (Revised) Under the proposal, cervidae livestock facility fees must be collected by the OCA. The BAH indicates that there are 350 cervidae facilities that they inspect about annually. The amount of revenue that will be generated by the proposal is indeterminable.

Registration Fees. (Revised) The BAH must charge \$500 for initial and renewal registrations. Registration expires after three years. Fees may not be increased by a rate of more than 5% per calendar year. Proceeds from application fees must be distributed in the following manner:

- (1) BAH: 75% to the BAH to promote cervidae and for administration.
- (2) OCA: 20% to be used for administration and cervidae promotion.
- (3) DNR: 5% to be deposited in the Fish & Wildlife Fund.

According to the BAH, the majority of the 350 known cervidae facilities contain fewer than 20 cervidae. It is likely that many owners of smaller herds will not pay the \$500 registration fee. If 175 of the facilities registered, the initial registration fee would generate \$87,000 every three years, or \$29,000 a year.

Fee for Selling Cervidae. A \$15 fee must be remitted to the BAH by the seller of every cervidae that is one year of age or older. A \$5 fee must be remitted by the seller of every cervidae that is less than one year of age. Proceeds from the fees must be distributed in the following manner:

- (1) BAH: 75% for administration.
- (2) OCA: 20% to be used to promote cervidae and administration.
- (3) OCA: 5% to be used by Indiana Deer and Elk Farmers Association to promote and market cervidae.

The amount of revenue that could be generated by the sale of cervidae is indeterminable at this time,

Penalty Provisions. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. The maximum judgment for a Class A infraction is \$10,000 which is deposited in the state General Fund. The maximum judgment for a Class B infraction is \$1,000 which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

A court may allow the BAH to recover reasonable costs and attorney's fees incurred in a prosecution resulting in a judgment or conviction for a violation. The Commissioner after a hearing may issue a warning or impose a fine of not more than \$1,000 plus the costs of investigation. The Commissioner must notify the Attorney General of the failure of any person to pay a fine. The Attorney General must bring a civil action in

a court to recover the fine. Civil penalties collected are paid to the General Fund.

Explanation of Local Expenditures: Penalty Provisions. A Class A misdemeanor is punishable by up to one year in jail. A Class B misdemeanor is punishable by up to 180 days in jail. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: Penalty Provisions. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: BAH, DNR, BAH, Attorney General, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: BAH; Indiana Sheriffs' Association, Department of Correction.

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